



Department of Energy
National Nuclear Security Administration
Office of the General Counsel
P. O. Box 5400
Albuquerque, NM 87185



AUG 29 2019

SENT VIA EMAIL

78122-42262576@requests.muckrock.com

Mr. Martin Pfeiffer
MuckRock News
DEPT MR 74639
411a Highland Ave
Somerville, MA 02144-2516

Dear Mr. Pfeiffer:

This letter addresses your request of educational/scientific category for fee purposes for your July 29, 2019 Freedom of Information Act (FOIA) request. You requested the following records:

“The 2017 Federal Employee Viewpoint Survey (FEVS), I hereby request the following reports: * 1st Level Sub-agency Report for the National Nuclear Security Administration (the main report for NNSA) *2nd Level Sub-agency Comparison Report for the National Nuclear Security Administration (compares results of each division within NNSA) *2nd Level Sub-agency Report for the Los Alamos National Laboratory (the main report for LANL) *2nd Level Sub-agency Report for the Nevada National Security Site (the main report for NNSS) *2nd Level Sub-agency Report for the Lawrence Livermore National Laboratory (the main report LLNL) For each report, I request the full report, including all appendices and attachments. In addition, should the results for 2019 already be available--or should they become available during the processing and fulfillment of this request--then I hereby request the same set of records for 2019 also.”

In your FOIA request, you identified yourself in the educational/scientific category for fee purposes. The agency asked you for clarification regarding the intended use of the requested documents, to which you provided a letter from Dr. Les Field, Professor of Anthropology at the University of New Mexico, which states you intend to use the material for research in support of your dissertation. The documentation you provided is not on official letterhead, nor does the documentation adequately explain how the requested material will be used for educational purposes. Additionally, a student is not entitled to categorization as an educational/scientific requester if he or she will also use the requested records for personal or commercial use.

Your request to be categorized as an educational/scientific requester is denied. We have determined that your use of the requested records is for your commercial interest or profit because you also charge a fee to patrons of your website for viewing/accessing records provided by the

AUG 23 2019


agency to you. Based on our determination you are categorized as a commercial use requester. Therefore, charges will be assessed to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Our agency will recover the cost of searching for and reviewing records even if there is ultimately no disclosure of records. This request is currently pending and processing will begin once we are notified of your willingness to either pay all fees, or notify us of the exact dollar amount of fees you are willing to pay, in accordance with 10 CFR § 1004.4(e). If we do not receive a response regarding your willingness to either pay all fees or your willingness to pay fees up to a stated dollar amount by September 5, 2019 we will consider your request invalid and will close it with no further action.

You may appeal our denial of fee category pursuant to 10 CFR § 1004.8(a). Such an appeal must be made in writing within 90 calendar days after receipt of this letter, addressed to the Director, Office of Hearings and Appeals, HG-1, U.S. Department of Energy, 1000 Independence Avenue SW, L'Enfant building, Washington, DC 20585. Your appeal must contain a concise statement of the grounds for the appeal and a description of the relief sought. Please submit a copy of this letter with the appeal. Please clearly mark both the envelope and the letter "Freedom of Information Appeal." You may also submit your appeal by e-mail to OHA.filings@hq.doe.gov, including the phrase "Freedom of Information Appeal" in the subject line. Thereafter, judicial review will be available to you in the District of Columbia or in the district where (1) you reside, (2) you have your principal place of business, or (3) the Department's records are situated.

You may contact me, NNSA's FOIA Public Liaison at 1-866-747-5994, or by mail at Department of Energy, National Nuclear Security Administration, Office of the General Counsel, PO Box 5400, Albuquerque, NM 87185, for further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at (202) 741-5770; toll free at 1-877-684-6448; or facsimile at (202) 741-5769.

If you have questions about the processing of this request, please e-mail Delilah Perez at Delilah.Perez@nnsa.doe.gov or write to the address above, and reference Control Number FOIA 19-00291-M in your communication.

Sincerely,


Pamela Arias-Ortega
Authorizing and Denying Official